

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE PIDDE,
JAMES CICHANOFSKY, ROGER MILLER,
and GEORGE NOWLIN on
behalf of themselves and
a similarly situated class,

Hon. Patrick J. Duggan

Case No. 04-70592

Plaintiffs,

v.

Class Action

CNH GLOBAL N.V., formerly
known as Case Corporation,
and THE COMPANY LLC,

Defendants.

Roger J. McClow (P27170)
David R. Radtke (P47016)
Darcie R. Brault (P43864)
McKNIGHT, McCLOW, CANZANO
SMITH & RADTKE, P.C.
Attorneys for Plaintiffs Reese, et al.
400 Galleria Officentre, Suite 117
Southfield, MI 48034
(248) 354-9650

Norman C. Ankers (P30533)
HONIGMAN MILLER
SCHWARTZ AND COHN LLP
Attorneys for Defendants
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226
(313) 465-7000

Bobby R. Burchfield, Esq.
McDERMOTT WILL & EMERY
Attorneys for Defendants
The McDermott Building
500 North Capital Street, Northwest
Washington, D.C. 20001
(202) 756-8000

PLAINTIFFS' MOTION FOR EXTENSION OF SCHEDULING ORDER

Plaintiffs, by and through their counsel, McKnight, McClow, Canzano, Smith & Radtke, P.C., move this Honorable Court as follows:

1. At the status conference in this matter which took place on February 4, 2013, the Court set a scheduling order after discussing the case with counsel.

2. The dates set after discussion were:

February 20, 2013	Plaintiffs submit questions to CNH regarding the Plan
March 1, 2013	CNH responds to Plaintiffs' questions
March 14, 2013	Plaintiffs submit discovery requests with CNH
April 13, 2013	CNH responses to Plaintiffs' discovery due
June 1, 2013	Plaintiffs' experts' reports due
June 21, 2013	CNH experts' reports due
July 21, 2013	Discovery closes
August 15, 2013	Dispositive motion cutoff date
September 5, 2013	Dispositive motion responses due
September 12, 2013	Dispositive motion reply briefs due

3. While there is no scheduling order containing all of these dates, a minute entry in the matter memorialized the discovery due date of July 21, 2013 and the dispositive motion cutoff of August 15, 2013. See Minute Entry dated February 4, 2013.

4. Plaintiffs submitted their discovery requests on March 14, 2013.

5. Defendant CNH responded on April 18, 2013 to the Plaintiffs' First Request for Admissions, CNH's Response to Plaintiffs' Fourth Request for Production of Documents, and CNH's Response to Plaintiffs' First Interrogatories.

6. This production was subject to numerous general and specific objections,

including that the number of Interrogatories exceeded the limits of the Federal Rules of Civil Procedure.

7. Defendants left approximately 25 interrogatories unanswered.

8. Plaintiffs filed a Motion for Leave to Exceed 25 Interrogatories. R. 337 on March 21, 2013. After the matter was fully briefed, Magistrate Judge Komives heard oral argument on April 23, 2013. The matter was taken under advisement.

9. For the reasons stated in the pleadings related to the motion, the information requested in the unanswered interrogatories is needed to fully inform Plaintiffs' potential expert witness(es) regarding the facts.

10. Plaintiffs have been diligently reviewing CNH's responses to the discovery requests. The electronic files produced include spreadsheets with voluminous claims information which are organized by codes that must be deciphered. In addition to the spreadsheets, a large box of documents was provided. Plaintiffs have not completed that review.

11. Plaintiffs have noted that CNH's Corrected (and original) Response to Request for Production of Documents indicates that it will "produce responsive, non-privileged documents to the extent they can be located after a reasonable search." While documents were produced, Defendant has not indicated which documents are responsive to which requests. This has increased the difficulty in assessing whether each response is complete and does not preclude the possibility that CNH intends to produce additional documents in the future. Plaintiffs requested that CNH supplement its responses to indicate which documents are responsive to which requests but have had no response. Plaintiffs further plan to issue a corporate deposition subpoena to determine the extent of the search for documents and whether the alleged burden in responding limited the Defendants production.

12. Defendant refused to respond to questions regarding pension income which is likely to become a subject of a motion to compel although Plaintiffs assert that judicial economy would be best served if Plaintiffs were permitted to wait until the interrogatory issue is resolved and to bring one comprehensive motion to compel rather than filing multiple motions as the answers are provided.

13. Plaintiffs provided some of the produced spreadsheets to a potential expert witness who has had questions regarding the content that Plaintiffs' counsel have not yet been able to answer.

14. Meanwhile, the UAW has been served with subpoenas for documents and witnesses and Plaintiffs' counsel has been assisting in that effort.

15. Until the issue with respect to the Interrogatories is determined, and questions are answered regarding the Defendants' production, any submission of information to expert witnesses will be incomplete. The deadline of June 1, 2013 for Plaintiffs' experts' reports may result in an incomplete report and will cause hardship to Plaintiffs in their attempt to comply with the deadline.

16. The current schedule was determined based upon an assumption that the discovery requests would be answered and complete by April 13, 2013. They were not and are still not. While Plaintiffs have sought relief through motion practice, Plaintiffs submit that good cause exists for extending the deadlines and schedule based upon Fed. R. Civ. Pr. 6(b).

17. Plaintiffs request a 90 day extension of deadlines.

18. Pursuant to Local Rule 7.1, Plaintiffs' counsel requested concurrence in the relief sought on May 9, 2013. Defense counsel does not concur.

WHEREFORE Plaintiffs respectfully request that the following schedule be ordered:

September 3, 2013	Plaintiffs' experts' reports due
September 24, 2013	CNH experts' reports due
October 28, 2013	Discovery closes
November 22, 2013	Dispositive motion cutoff date
December 13, 2013	Dispositive motion responses due
December 23, 2013	Dispositive motion reply briefs due

Respectfully submitted,

McKNIGHT, McCLOW, CANZANO,
SMITH & RADTKE, P.C.

By: /s/Darcie R. Brault
David R. Radtke (P47016)
Darcie R. Brault (P43864)
Attorneys for Class Plaintiffs
400 Galleria Officentre, Suite 117
Southfield, MI 48034
(248) 354-9650
dbrault@michworklaw.com

Dated: May 9, 2013

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE PIDDE,
JAMES CICHANOFSKY, ROGER MILLER,
GEORGE NOWLIN and RONALD HITT, on
behalf of themselves and
a similarly situated class,

Hon. Patrick J. Duggan

Case No. 04-70592

Plaintiffs,

v.

Class Action

CNH GLOBAL N.V., formerly
known as Case Corporation,
and THE COMPANY LLC,

Defendants.

Roger J. McCLOW (P27170)
David R. Radtke (P47016)
Darcie R. Brault (P43864)
McKNIGHT, McCLOW, CANZANO
SMITH & RADTKE, P.C.
Attorneys for Plaintiffs Reese, et al.
400 Galleria Officentre, Suite 117
Southfield, MI 48034
(248) 354-9650

Norman C. Ankers (P30533)
HONIGMAN MILLER
SCHWARTZ AND COHN LLP
Attorneys for Defendants
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226
(313) 465-7000

Bobby R. Burchfield, Esq.
McDERMOTT WILL & EMERY
Attorneys for Defendants
The McDermott Building
500 North Capital Street, Northwest
Washington, D.C. 20001
(202) 756-8000

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR
EXTENSION OF SCHEDULING ORDER**

Plaintiffs rely upon the Fed. R. Civ. Pr. 6 (b) and their demonstration of good cause, as
stated more fully in the foregoing motion.

Respectfully submitted,

McKNIGHT, McCLOW, CANZANO,
SMITH & RADTKE, P.C.

By: /s/Darcie R. Brault
David R. Radtke (P47016)
Darcie R. Brault (P43864)
Attorneys for Class Plaintiffs
400 Galleria Officentre, Suite 117
Southfield, MI 48034
(248) 354-9650
dbrault@michworklaw.com

Dated: May 9, 2013

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2013 I electronically filed the foregoing paper with the Clerk of the Court using the ECF system.

Respectfully Submitted,

McKNIGHT, McCLOW, CANZANO,
SMITH & RADTKE, P.C.

By: /s/Darcie R. Brault
David R. Radtke (P47016)
Darcie R. Brault (P43864)
Attorneys for Class Plaintiffs
400 Galleria Officentre, Suite 117
Southfield, MI 48034
(248) 354-9650
dbrault@michworklaw.com

Dated: May 9, 2013